United Nations S/AC.44/2014/1

Security Council

Distr.: General
13 January 2014
English
Original: English/Russian

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 9 January 2014 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to forward herewith the information on Ukraine's implementation of the provisions of Security Council resolution 1540 (2004) (see annex).

14-20588 (E) 230114 280114

Please recycle

Annex to the note verbale dated 9 January 2014 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

Ukraine State Export Control Service: scope of responsibility

Activities carried out in Ukraine under paragraph 1 of Security Council resolution 1540 (2004)

As an independent country, Ukraine is an active participant in establishing and developing a worldwide and regional European security system. A crucial element of that system is State export control of military, dual-use and other goods, including those that could be used for the production of weapons of mass destruction and their means of delivery.

In accordance with its official non-aligned status, Ukraine fosters the establishment of reliable international export control mechanisms at the bilateral, regional and global levels, engaging with States and international organizations according to the principles of mutual understanding, openness and partnership.

An effective national export control system is in place in Ukraine to carry out activities under paragraph 1 of resolution 1540 (2004). The appropriate regulatory framework also exists.

Alignment of the legislative framework of Ukraine with paragraph 2 of Security Council resolution 1540 (2004)

At the international level, Ukraine, a subject of international law, is meeting its international obligations by bringing its national export control procedures into line with those obligations. The primary sources of international export control law include the relevant Security Council resolutions and other United Nations instruments; treaties and agreements to which Ukraine is party within the context of the Organization for Security and Cooperation in Europe and the Commonwealth of Independent States; Ukraine's obligations as part of its cooperation with the European Union, the Customs Union of the Eurasian Economic Community and the North Atlantic Treaty Organization (NATO); and bilateral and other international treaties and agreements to which Ukraine is party, including the export control regime instruments of the Wassenaar Arrangement, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime and the Australia Group.

At the national level, the Verkhovna Rada (Parliament) of Ukraine enshrines export control procedures in law. The Act on State control of international transfers of military and dual-use goods of 20 February 2003 is the primary instrument in that domain. The Act governs activity related to State control of international transfers of military and dual-use goods to ensure the protection of Ukrainian national interests; compliance with international obligations on non-proliferation of weapons of mass destruction and their means of delivery, as well as with limits on conventional weapons transfers; and work to prevent the use of these goods for terrorist or other unlawful purposes.

The legal framework in Ukraine is realigned on an ongoing basis, as the country's relevant international export control obligations undergo changes based on national interests.

Activities carried out in Ukraine under paragraph 3 (d) of Security Council resolution 1540 (2004)

At the national level, the State Export Control Service performs export control within the limits of its authority; in that context, in accordance with paragraph 3 (d) of resolution 1540 (2004), there is oversight of compliance with the relevant laws and regulations for the control of export, transit, trans-shipment and re-export, as well as oversight of funding and services related to such export.

Under Presidential Decree No. 448 of 8 April 2011 on the State Export Control Service, the Cabinet of Ministers manages and coordinates the Service's activities through the Ministry of Economic Development and Trade.

The primary tasks of the State Export Control Service, including those aimed at implementing paragraph 3 (d) of resolution 1540 (2004), are the following:

- Implementing national policy on State control of international transfers of military and dual-use goods and other goods that are not subject to State export control but to which, by law, State export control procedures may be applied.
- Making proposals for the design of national policy on State control of international transfers of goods.
- Protecting national interests and complying with international obligations related to non-proliferation of weapons of mass destruction and their means of delivery; to limitations on transfers of conventional weapons; and to prevention of the use of conventional weapons for terrorist and other unlawful purposes.
- Supporting international cooperation and engagement with the appropriate agencies of foreign States and international organizations on matters of non-proliferation and export control.

National export control coordination mechanisms in Ukraine

The State export control system in Ukraine is the primary mechanism for coordinating interaction among the executive agencies of Ukraine on joint activities to ensure appropriate State control of international transfers of goods in accordance with international obligations arising out of the country's adherence to international export control regimes.

A primary component of the system referred to is the work of the State Export Control Service, which, within the limits of its powers, participates jointly with stakeholder agencies in developing legislative and regulatory acts governing export control activity and also organizes and monitors their implementation.

Initiatives, programmes, tools and public information under paragraph 8 (d) of Security Council resolution 1540 (2004)

The State export control system and the relevant regulatory framework, which are aligned with paragraph 8 (d) of resolution 1540 (2004), serve as an effective tool for working with industry and the public and keeping them informed.

Mechanisms for adopting and reviewing national control lists

Lists of goods subject to national oversight and the procedure for drawing up, monitoring and reviewing them come under the competency of the Cabinet of

Ministers, which approves the lists through its regulatory acts based on the Act on State control of international transfers of military and dual-use goods.

These regulatory acts include Cabinet of Ministers Decision No. 1807 of 20 November 2003 on approval of procedures for implementing State control of international transfers of military goods and Cabinet of Ministers Decision No. 86 of 28 January 2004 on approval of procedures for implementing State control of international transfers of dual-use goods. The lists of goods adopted under these decisions correspond to the lists of goods developed by the international export control regimes to which Ukraine is party, which are: the Wassenaar Arrangements, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime and the Australia Group.

Assistance, capacity-building and public awareness

Implementation of Security Council resolution 1540 (2004) by the State Export Control Service is based on the principles of openness and transparency and involves posting the relevant information on the Service website (http://www.dsecu.gov.ua) and in other media, including print outlets; producing and broadcasting radio and television programmes; and issuing specialized publications.

Information on the work of the State Export Control Service is provided to the public in accordance with national law.

Ukraine State Border Service: scope of responsibility

The State Border Service engages in counter-terrorism work, within its competencies, and, in cooperation with other national law enforcement bodies, combats terrorist threats by identifying and preventing attempts to cross the border illegally with weapons, explosives, poisons, radioactive substances and other items that could be used to commit terrorist acts. The Border Service contributes to the design and implementation of appropriate, effective border control activities and law enforcement measures to identify, halt, prevent and counteract illicit trafficking in and brokerage of such items, including through international cooperation, when necessary, in accordance with national legal regulatory frameworks and legislation consistent with international law.

The units of the State Border Service engage in the following:

- Investigations to identify attempts to bring illicitly trafficked radioactive materials across international borders.
- Searches of vehicles crossing international borders to detect radioactive materials.
- Detention of individuals and vehicles that circumvent checkpoints in an attempt to cross illegally into Ukraine.
- Preliminary inspections at the boundaries of controlled areas and implementation of the necessary security measures pending the arrival of expert services.
- Physical protection of radioactive materials withdrawn from illicit trafficking during illegal border crossings in areas without checkpoints until such materials are duly shipped to their proper destination.

Ukraine Ministry of Revenue and Duties: scope of responsibility

Activities carried out in Ukraine under paragraph 1 of Security Council resolution 1540 (2004)

The provisions on procedures for providing safeguards and implementing State oversight of obligations to use goods subject to State export control for declared purposes was approved by Cabinet of Ministers Decision No. 920 of 27 May 1999.

In accordance with paragraph 12 of the above provisions, the Ministry of Revenue and Duties generates and issues delivery confirmation certificates, which are State documents confirming that the good mentioned therein was imported to Ukraine and is subject to the export control regime of Ukraine.

Activities carried out in Ukraine under paragraph 3 (d) of Security Council resolution 1540 (2004)

In accordance with article 21 of Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods, customs clearance and control are governed by the procedure set out in the Customs Code.

In accordance with article 197 of the Customs Code, there are, in certain cases provided for by law, restrictions on the movement of particular goods through Ukrainian customs checkpoints. Passage of such goods through Ukrainian customs and customs clearance are carried out by the revenue and duties agencies, on the basis of documents issued by the authorized State oversight agencies confirming compliance with the restrictions.

The Cabinet of Ministers approves the list of such goods as well as the procedure for issuing the relevant authorizations. Procedures for State control of international transfers of military goods were approved under Cabinet of Ministers Decision No. 86 of 21 January 2004. A control list of those goods with a detailed description of their specifications has been included in the annex to the procedures.

Under these procedures, economic operators may engage in international goods transfers if they have the appropriate authorization from the State Export Control Service.

In accordance with article 12 of the Act on State control of international transfers of military and dual-use goods, economic operators in Ukraine that plan to engage in international transfers of the goods mentioned above, including in an intermediary (broker) capacity for international transfers of military goods, register in advance with the central executive agency responsible for State export control policy (Ukraine Gosexportkontrol) as parties to an international goods transfer. The parties referred to submit to Gosexportkontrol the records and documents needed for a preliminary expert assessment of the goods. Following the assessment, Gosexportkontrol identifies the goods, determines the requirements governing international transfers to a particular country, based on the category of good and how international transfers of such goods are carried out, etc., and confirms with the parties to the operation that they are registered parties to (participants in) international goods transfers. Gosexportkontrol also provides any relevant clarifications regarding specific aspects of such transfers.

Military and dual-use goods undergo customs processing based on the submission of Gosexportkontrol authorization documents to the revenue and duties agency.

Ukraine State Security Service: scope of responsibility

In order to apply Security Council resolution 1540 (2004) and legislative acts of Ukraine, including Presidential Decree No. 73/2013 of 11 February 2013 on the national plan to implement the Seoul Communiqué of the 2012 Seoul Nuclear Security Summit for the period 2013-2014, the Security Service carries out measures, within its competence, to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery.

To that end, in 2013, the Security Service conducted regular activities to cut off possible routes for the transfer of weapons of mass destruction through the territory of Ukraine and provide safe transit of depleted nuclear fuel across our country from countries of the European Union to the Russian Federation, and also held a number of counter-terrorism drills at nuclear power facilities.

Ukraine Ministry of Internal Affairs: scope of responsibility

Under the current legislation, Ministry of Internal Affairs internal security forces are tasked with providing security and protection for key State facilities, including nuclear installations and nuclear materials subject to the national system for the physical protection of nuclear installations and materials.

Ukraine Armed Forces: scope of responsibility

There are currently no provisions in Ukrainian law covering participation by the armed forces in activities related to the manufacture, acquisition, possession, stockpiling, transport, transfer or use of nuclear, chemical or biological weapons or their means of delivery.

The armed forces are also involved in international cooperation and export control, within their competence, related to the prevention of unlawful trafficking in materials that could be used to develop or produce weapons of mass destruction (specific types of materials, chemical substances and bacteriological, biological and toxic agents) for military or terrorist purposes.

The armed forces have no nuclear, chemical or biological weapons in their arsenal or in stockpiles.

However, sources of ionizing radiation are used in certain armed forces equipment and weapons, and their use and storage is in compliance with the Radiation Safety Standards of Ukraine (DGN 6.6.1-6.5.001-97) and the State Health Rules (DSP 6.074.120-05).

The disposal of radioactive waste (sources of ionizing radiation whose service life has expired) is handled exclusively at the specialized facilities of RADON, a state-owned corporation.

The following regulatory acts and administrative instructions govern these activities of the armed forces:

- Act No. 40/95 of 8 February 1995 on nuclear energy use and radiation safety
- Act No. 549-IV of 20 February 2003 on State control of international transfers of military and dual-use goods
- Act No. 81/96 of 6 March 1996 on environmental protection
- Act No. 736/97 of 17 December 1996 on ratifying the Convention on Nuclear Safety
- Act No. 187-XIV of 16 October 1998 on ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention)
- Act No. 1688-III of 20 April 2000 on ratifying the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management
- Cabinet of Ministers Decision No. 847 of 4 August 1997 on establishing a State registry of sources of ionizing radiation
- Cabinet of Ministers Decision No. 1718 of 16 November 2000 on some issues of State regulation of activity involving sources of ionizing radiation
- Cabinet of Ministers Decision No. 1807 of 20 November 2003 on adopting procedures for State control of international transfers of military goods
- Cabinet of Ministers Decision No. 86 of 28 January 2004 on adopting procedures for State control of international transfers of dual-use goods
- Cabinet of Ministers Decision No. 406 of 16 March 1999 on procedures for establishing a nationwide monitoring and accounting system for individual doses of radiation exposure
- National Security and Defence Council decision of 13 October 2009 on safeguarding national interests in the area of nuclear energy use, adopted under Presidential Decree No. 1062-38t of 16 December 2009
- Minister of Defence Decree No. 106 of 6 May 1995 on organizing individual radiation dosimetric monitoring and benefits for observers
- Minister of Defence Decree No. 279 of 9 September 1999 on approving instructions for procedures for verifying (inspecting) and assessing environmental safety in the armed forces
- Ministry of Health Decree No. 54 of 2 February 2005 on adopting basic health standards for radiation safety
- National basic health standards for radiation protection (DSP 6.074.120-01) No. 552/10832, registered with the Ministry of Justice on 20 May 2005
- Chief Medical Officer/First Deputy Minister of Health Decision No. 62 of 1 December 1997 on the implementation of State hygiene regulations